

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICOfor the
District of New Mexico

JUN 20 2016

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)Joe Lawrence Gallegos: DOB XX/XX/1969
Andrew Gallegos: DOB XX/XX/1975MATTHEW J. DYKMAN
Case No. 16 MR 458 CLERK

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

Joe Lawrence Gallegos: DOB XX/XX/1969 and Andrew Gallegos: DOB XX/XX/1975

located in the _____ Judicial _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

Cranial hair and DNA biological samples (buccal swab) of Joe Lawrence Gallegos, DOB XX/XX/1969

Cranial hair and DNA biological samples (buccal swab) of Andrew Gallegos, DOB XX/XX/1975

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

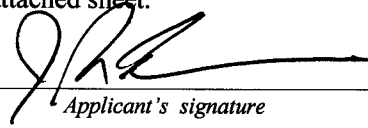
- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. §§ 1959(a)(1);	Violent Crimes in Aid of Racketeering - Murder;
18 U.S.C. §§ 1959(a)(5)	Violent Crimes in Aid of Racketeering - Conspiracy to Commit Murder

The application is based on these facts:

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Joseph Sainato, FBI Special Agent


Printed name and title

Sworn to before me and signed in my presence.

Date:

June 20, 2016

City and state: Albuquerque, New Mexico


Judge's signature

Karen B. Molzen, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

I, Joseph Sainato, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND BACKGROUND OF THE AFFIANT

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to obtain deoxyribonucleic acid (DNA) samples from Joe Lawrence GALLEGOS and Andrew GALLEGOS for laboratory analysis. This affidavit seeks a search warrant to obtain evidence of violations of: 18 U.S.C. §§ 1959(a) – Violent Crime in Aid of Racketeering – Murder.

Background of the Affiant

2. I have been an employee of the Federal Bureau of Investigation (FBI) since 2008. I started my career with the FBI as an Investigative Specialist, where I specialized in physical surveillance. I became a Special Agent (SA) in 2015 and am currently assigned to the FBI's Safe Streets HIDTA Gang Task Force in Albuquerque, New Mexico, where I investigate drug trafficking organizations and gang-criminal enterprises. I have completed more than 800 hours of formal training from the FBI. I have earned a Bachelor's degree in Sociology/Criminology and Law Enforcement from the University of Akron. I have further received on the job training from other experienced agents and detectives in the investigation of gangs and criminal organizations. I have participated in the investigation of drug distribution, firearms trafficking, and violent gang/criminal enterprises. My investigative training and experience includes, but is not limited to, conducting surveillance, interviewing subjects, targets and witnesses, writing affidavits for and executing search and arrest warrants, managing cooperating sources, issuing subpoenas, collecting evidence and analyzing public records.

FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE

3. Over the past year, the FBI, New Mexico Corrections Department (NMCD) and the Bernalillo County Sheriff's Office (BCSO) have been investigating the Sindicato de Nuevo Mexico (SNM) Gang within the District of New Mexico and elsewhere. The investigation yielded evidence of SNM Gang members participating in numerous homicides, attempted murders and aggravated assaults, as well as robberies, burglaries and drug trafficking crimes.

4. Over the past six months, FBI agents have arrested approximately sixty (60) members and associates of the SNM Gang on federal charges, to include: Racketeer Influenced and Corrupt Organizations (RICO) Conspiracy; Violent Crime in Aid of Racketeering (VICAR) murder, attempted murder, conspiracy to commit murder, assault with a deadly weapon resulting in serious bodily injury and conspiracy to commit assault with a deadly weapon resulting in serious bodily injury; felon in possession of a firearm; using or carrying a firearm during and in relation to a crime of violence; tampering with and retaliating against a witness, victim, or an informant; conspiracy to distribute and possession with intent to distribute heroin; and aiding and abetting.

5. By way of background, Joe Lawrence GALLEGOS (born in 1969) and Andrew GALLEGOS (born in 1975) were indicted by a Federal Grand Jury on April 21, 2016 for 18 U.S.C. §§ 1959(a) – VICAR homicide for the 2012 murder of AB. Joe Lawrence GALLEGOS and Andrew GALLEGOS are currently in the custody of the United States Marshal Service on these charges.

6. I believe that AB was murdered by Joe Lawrence GALLEGOS and Andrew GALLEGOS on or about November 12, 2012. I also believe that the assault on AB began inside Joe GALLEGOS's residence, located in Los Lunas, New Mexico. AB sustained a beating, which led to a tremendous amount of blood loss. Subsequently, AB was handcuffed, taken from the residence, and driven to a remote location near Socorro, New Mexico, where he was shot in the head and set on fire. These beliefs are based on my participation in the SNM Gang investigation, review of official law enforcement reports, and conversations with law enforcement officers who participated in the murder investigation of AB.

7. On April 13, 2016, FBI agents executed a search warrant, which was authored by myself and Task Force Officer (TFO) Mark Myers and approved by Chief United States Magistrate Judge Karen B.

Molzen, at Joe GALLEGOS'S. The search warrant authorized agents to search for evidence of violations of 18 U.S.C. §§ 1959(a) – *Residence on or about November 12, 2012. -JS VAW* Violent Crime in Aid of Racketeering, to include latent and/or visible prints, bodily fluids, bodily tissues, and/or bodily organs and fibers, which may contain DNA. Pursuant to the execution of the warrant, members of the FBI's Evidence Response Team (ERT) seized 29 swabs of suspected blood evidence, a piece of wall paneling where suspected blood was recovered, and two sections

of flooring where suspected blood was recovered. Agents sent the aforementioned items of evidence to the FBI Laboratory for DNA analysis. Agents also obtained several articles of clothing and sections of vehicle interior, which contained suspected blood, from New Mexico State Police Evidence, which were seized pursuant to the initial arrest of Joe Lawrence GALLEGOS and Andrew GALLEGOS on November 20, 2012. Agents also sent the aforementioned items obtained from NMSP to the FBI Laboratory for analysis, along with a blood sample of AB.

8. After speaking to a technician from the FBI Laboratory, I am aware that obtaining DNA samples from Joe Lawrence GALLEGOS and Andrew GALLEGOS would aid greatly in the effectiveness of the scientific techniques employed by the FBI Laboratory to make DNA comparisons of the aforementioned suspected blood samples for the purposes of identifying whether or not any of the suspected blood belongs to Joe Lawrence GALLEGOS and/or Andrew GALLEGOS.

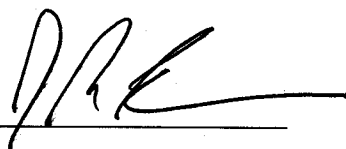
KBM
JK

CONCLUSION:

9. Based on the above information, I believe that there is probable cause to believe that evidence of violations 18 U.S.C. § 1959(a) – VICAR homicide will be found within the persons of Joe Lawrence GALLEGOS and Andrew GALLEGOS. Therefore, I submit that this affidavit supports probable cause for a warrant to search within the persons of Joe Lawrence GALLEGOS and Andrew GALLEGOS and seize samples of bodily fluids and/or tissues, which could potentially contain identifying DNA.

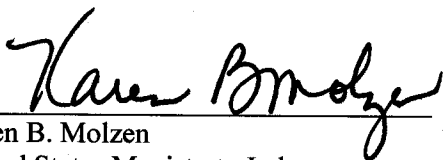
10. This affidavit has been reviewed by Assistant United States Attorneys Maria Armijo and Randy Castellano of the District of New Mexico.

Respectfully submitted,



Joseph Sainato
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me on June 20, 2016:



Karen B. Molzen
United States Magistrate Judge